

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

SONNIE WELLINGTON HEREFORD,)	
IV., et al.,)	
)	
Plaintiffs,)	
)	
AND)	CV-63-MHH-109-NE
)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff-Intervenor,)	
)	
v.)	
)	
HUNTSVILLE BOARD OF)	
EDUCATION, et al.,)	
)	
Defendants.)	

**NOTICE OF DEFENDANTS' FILING OF
NINTH CONSENT ORDER REPORT**

Introduction

Defendant, Huntsville City Board of Education (the “Board” or the “District”), files this day its ninth, annual Consent Order Report with the Court (hereinafter, collectively the “Court Report” or “Consent Order Reports”). As it has done in the past, the District files this Notice to help the Court, and the citizens of Huntsville, better understand the Consent Order Reports. This Notice provides context and explains notable features of the Consent Order Report.

As the Court is aware, the Consent Order (Doc. 450) requires many reports. Nearly all reports require data from the preceding school year. As such, the date range for the data in this year's reports is July 1, 2022, through June 30, 2023, meaning the data in most of these reports took place during year eight of the District's implementation of the Consent Order. In order to improve the reports and this document, we have included a label on each report that identifies the school year of the data. Additionally, on this Notice, we have included the relevant date range in the description of each report.

Year Eight Update and Plan Forward

On September 15, 2023, the Court ordered the parties to “meet and confer about the status of the Board's implementation of the Consent Order and consider which Green factors the Board may have satisfied, or may be near satisfying, and provide the Court with a written status report by February 1, 2024.” (Doc. 770, p. 4). Currently, the Board is working with the United States in compliance with the Court's Order to evaluate the Board's implementation of the Consent Order. The Board will provide a more thorough update regarding the implementation of the Consent Order on February 1, 2024.

However, the Board did want to make mention of a few notable changes in the District that occurred during year 8 of implementation. Mrs. Christie Finley retired as Superintendent of the District effective May 31, 2023. Mrs. Finley had

served as the District's Superintendent since the summer of 2018. While the Court is well aware of Mrs. Finley's many and significant contributions to the District, the District will note that Mrs. Finley, a 2020 District 9 Superintendent of the Year award winner, moved the District from an overall report card grade of a C to a B, as measured by the Alabama State Department of Education. She was also instrumental in developing and implementing a District-wide strategic plan that tied strategic goals to the Consent Order to create a road map for future success. Mrs. Finley's positive impact on the District will continue to be felt for many years to come.

Effective June 1, 2023, Dr. Clarence Sutton took over as the District's new Superintendent. Dr. Sutton has been with the District since 2019. Prior to becoming Superintendent, he served as the District's Chief Academic Officer (2019-2021), Deputy Superintendent of Learning Supports (2021-2023), and Chief of Staff (2023). Prior to coming to the District, Dr. Sutton served as the principal of Central High School (Tuscaloosa, AL) (2010-2019), principal of Southview Middle School (Tuscaloosa, AL) (2008-2010), and assistant principal of Westlawn Middle School (Tuscaloosa, AL) (2005-2008). He also taught science at Eastwood Middle School (Tuscaloosa, AL) from 1994 to 2005. After being named Superintendent, Dr. Sutton stated the following: "Our goal is to be a premier school system where we inspire,

engage, and empower all students.”¹ The District is extremely excited about Dr. Sutton’s future as Superintendent.

In addition to the change in the Superintendent position, the District also experienced some turnover in other leadership positions:

- Mr. Anthony “AJ” Buckner was hired as the District’s new Deputy Superintendent. Prior to his employment with the District, Mr. Buckner worked with the Alabama State Department of Education in the Office of School Improvement. Mr. Buckner has more than 20 years of experience in education in roles ranging from teacher, to principal, to central office administrator.
- Dr. Caroline Obert was hired as the District’s new Director of Instruction over secondary programs (middle schools). Prior to serving in her new role, Dr. Obert was the principal at Huntsville Junior High School. In August of 2023, Dr. Obert was chosen by the Council for Leaders in Alabama Schools as the President of the Alabama Association of Middle School Principals.
- Mr. Larry Saulsberry was hired as the District’s new Director of Instruction over elementary programs. Prior to serving in this role, Mr. Saulsberry served as principal at Elkmont Elementary School (Limestone County,

¹ <https://www.huntsvillecityschools.org/page/superintendent> (last visited November 13, 2023).

Alabama) and assistant principal at Loachapoka High School (Lee County, Alabama).

- Ms. Sheila Roby was promoted to the position of Director of Instruction over secondary programs (high schools). Ms. Roby previously served as the District's Director of Information Systems and Analytics. She also served as the principal at New Century Technology High School for several years.
- Dr. Ina Smith was hired as the District's new Compliance Coordinator. Dr. Smith worked in a similar role for the Calhoun Community College before coming to the District.
- Mrs. Teresa Dent was promoted to the position of Behavioral Learning Coordinator. Ms. Dent was promoted from her prior position as the District's Behavioral Learning Specialist.

The District looks forward to the positive impacts all of the above individuals will have on its schools and programs.

Description of the Reports

This section of the Notice lists each Consent Order reporting requirement, in order, along with contextual notes, if any, as to that reporting requirement.

II. STUDENT ASSIGNMENT

D. Majority-to-Minority Transfers

II.D.8.a.: A report containing the following information for each application requesting a transfer effective for that school year: student

identification number; applicant name; address; race; grade level; home/zoned school; school(s) to which transfer sought; each type of transfer requested; the outcome (including, for each transfer granted, identification of the school to which the transfer was approved); and the basis for the denial, if any. *The date range for this report is October 1, 2022 to September 30, 2023.*

Notes:

This reporting requirement is similar to the one required by the 1970 Singleton Order. (Doc. 65). This year's report shows that 300 students were offered a M-to-M transfer and accepted it. Of the 300 students, 299 were Black and 1 was White. The schools with the largest number of accepted M-to-M transfers were Huntsville High School 67, and Huntsville Junior High 36, and Blossomwood Elementary 33. Notably, the Whitesburg P-8 campus (Whitesburg Elementary plus Whitesburg Middle) received 43 total M-to-M transfer students.

The report notes that 46 M-to-M transfers were designated as "Auto-Denial." All 46 instances of "Auto-Denial" received an awarded school in the "Awarded School" column. Auto-Denial means the applicant was awarded a M-to-M transfer (an awarded school). However, the parent or guardian failed to accept the M-to-M transfer or respond to the transfer award notice. Thus, because the parent or guardian failed to respond, the transfer application was automatically declined due to non-responsiveness. The report designates 37 transfer requests as "Application Withdrawn." Of those 37 transfer requests, 12 received an awarded school in the

“Awarded School” column. Application Withdrawn means the parent or guardian revoked the transfer request at some point during the M-to-M transfer process. For 12 instances of Application Withdrawn that received an awarded school, the parent or guardian withdrew the M-to-M application after receiving notice of the awarded transfer.

* * *

II.D.8.b.1.: Transfer wait list information maintained pursuant to Section II.D.2.b.12., as of the expiration date of the wait list. The District may report this information separately or as part of the Excel spreadsheet described in Section II.D.8.a. *The date range for this report is October 1, 2022 to September 30, 2023.*

Notes:

The District included this information on Report II.D.8.a. Any student who sought a M-to-M Transfer but was placed on a waitlist and remained on the waitlist as of its expiration is listed as “Waitlisted.” This year, the District had 44 students on the waitlist when it expired. Students who were placed on the waitlist initially but were later offered a transfer will show as either “Offered and Accepted” or “Offered and Declined,” depending on their circumstances.

M-to-M Waitlist			
Year	Black	White	Total
2014-15	89	1	90
2015-16	129	1	130
2016-17	18	4	22
2017-18	38	0	38
2018-19	20	0	20

2019-20	0	0	0
2020-21	28	0	28
2021-22	49	0	49
2022-23	44	0	44

* * *

II.D.8.b.2.: Results of M-to-M surveys conducted *during the 2022-23 school year* pursuant to Section II.D.6.b.

Notes:

The District was able to complete both the student and parent M-to-M surveys as it has in prior years. The District has not made any changes to the written survey procedures previously discussed in reports. (See Doc. 598, pp. 10-13; see also Doc. 542, pp. 9-11). Despite the lack of change in District procedure, the District received 182 student responses out of a possible 451 responses for a response rate of 40%. The 40% response rate represents a substantial decrease as compared to prior year response rates for students. The District is very disappointed in the student response rate. The District is committed to ensuring that this low response rate represents a mere outlier in an otherwise good history with the student response rate on the M-to-M survey. Notably, the District received 114 parent survey responses. The number of parent survey responses increased as compared to last year's 70 parent responses.

* * *

II.D.8.b.3.: *For the 2022-23 school year*, District marketing efforts regarding the M-to-M program, including examples of marketing materials.

Notes:

This report contains a list of the M-to-M marketing activities of the District during the 2022-23 school year. As in year's past, the District's marketing efforts included sending a letter to students with an expiring M-to-M transfer notifying students of the expiring transfer, need to reapply, and details about the M-to-M application process. Additionally, the District advertised the M-to-M program via Twitter, Facebook, ETV, District website, robocalls, text messages, emails, and newsletters. The District's efforts also included a Facebook Live presentation explaining how M-to-M transfers operate, including the timeline and application process. The District did not complete any in-person marketing events during the 2022-23 school year.

* * *

II.D.8.b.4.: *For the 2023-24 school year*, transportation schedules, to be filed under seal.

Notes:

This report, although sealed for the protection of students, demonstrates that all of the M-to-M buses meet the District's travel time guidelines. Given the geographic size of the City of Huntsville, this is not an easy task both as a matter of logistics and as a matter of cost.

* * *

F. MAGNET PROGRAMS

II.F.1.: *For applications submitted during the 2022-23 school year, for each magnet program, student applicant data that includes: the number of applicants, disaggregated by race; the number of students accepted, disaggregated by race; the number of students who are not accepted, disaggregated by race (including reason(s) for a student not being accepted); the number of students enrolled, disaggregated by race; and the number of students who withdrew or transferred out of the magnet program, disaggregated by race, (including the reason(s), to the extent available, for the withdrawal or transfer).*

Notes:

To accurately report the requested data, the reasons for a student not being accepted in his or her desired magnet program have been split into different categories: ineligibility; committee review score; and space. Each category has its own column on the report so that the data could be disaggregated by race. The “ineligible” column is now moot because the District has upgraded its magnet application system and no longer allows potential applicants to complete an application if the student’s birthdate does not correspond with the state-issued birthdate cutoff. The birthdate cutoff is the same birthdate cutoff used to enroll students by age in preschool through first grade. Also, when reading this report, it is important to understand the following:

- 1,327 students completed applications, but applicants can list up to two magnet programs in their application;

- The 1,327 students submitted 2,008 applications across all magnet programs;
- The number of applications exceeds the number of applicants because some applicants applied to more than one program;

* * *

II.F.2.: *For the 2022-23 school year*, a report of magnet marketing and recruitment efforts taken for the previous school year, including samples of brochures and advertisements, and where appropriate, the date and location of the marketing and recruitment.

Notes:

This report contains a list of the Magnet marketing and recruiting activities of the District during the 2022-23 school year. This report also includes copies of example advertising materials. In an effort to support its magnet programs, the District expends a considerable amount of resources marketing the District's magnet programs.

* * *

II.F.3.: *For the 2023-24 school year*, a report of the magnet courses offered at each magnet school/program for the current school year.

Notes:

This report lists magnet courses offered at each magnet school or magnet program for the 2023-24 school year. This report also contains information regarding magnet course duplication. The District notes that introductory or foundational

courses continue to be offered to all students. However, the more advanced courses that build upon these courses are only offered as part of a magnet program.

* * *

II.F.4.: *For the 2023-24 school year*, the District’s efforts to review and respond to duplication of magnet courses in the District.

Notes:

This report contains a narrative description of the efforts that the District has taken to protect the unique magnet course programming at the District’s magnet schools and programs. The District does not consider introductory or foundational courses as duplicated. While those courses are offered at other schools in the District, the magnet programs that offer those courses build upon those concepts with specialized and unique courses that are not available at other schools in the District.

* * *

II.F.5.: *For the 2022-23 school year*, a report that includes for each student enrolled in a dual enrollment course: the student's name or identification number; school attended; the magnet program attended, if any; grade; the name of each dual enrollment course; and the institution of higher education affiliated with each dual enrollment course.

Notes:

As described in previous Cover Notices, an accurate reading of this report requires understanding the difference between courses listed as “CTE” and “Core” under the “Course Type” column. Section II.D.7.h of the Consent Order (Doc. 450,

pp. 33-34) requires the District to limit the number of dual enrollment courses that a student may take to one per year unless the Superintendent approves the student to take additional courses. This limitation does not apply to career technical courses. To help the reader of this report identify the dual enrollment courses to which this limitation applies, the District has designated dual enrollment courses as either “Core” or “CTE.” The dual enrollment courses that are limited by the Consent Order are identified as “Core,” and those that are not identified as “CTE.”

This year’s report reflects dual enrollment courses taken during the 2022-23 school year. The District has continued to see a rise in the number of dual enrollment courses taken by students. Dual enrollment courses are growing in popularity among the District’s students. Looking at the Fall of 2022 and the Spring of 2023, District students took a total of 412 dual enrollment courses (CTE + CORE). Of the 412 courses, 166 were CORE compared to 246 CTE. The 246 CTE courses taken in 2022-2023 represents a substantial increase as compared to prior years (143 in 2019-2020, 123 in 2020-2021, and 166 in 2021-2022). As compared to last year, the District saw a slight decrease in the number of core dual enrollment courses taken by students (166 in 2022-2023 compared to 175 in 2021-2022).

* * *

III. EQUITABLE ACCESS TO COURSE OFFERINGS AND PROGRAMS

III.M.1.a.: *For the 2023-24 school year, a list of all AP and IB diploma courses taught in each high school and the enrollment in each AP or IB Diploma course in each high school, disaggregated by race.*

Notes:

This report lists each AP and, for Columbia High School, IB Diploma course taught at each school and the racial demographics of the students enrolled in each class. When reading the table for each course, the number of students under the race columns represents actual students taking the listed course. However, a student may be included in multiple rows if that student is taking multiple AP or IB Diploma courses. In fact, many students are. This means that the row labeled “Non-Distinct Enrollment Count” for each school contains students who are counted multiple times.

The District is proud to report non-distinct student participation for Black students in AP/IB courses increased for the second year in a row. The participation numbers for both Black and White students has largely returned back to pre-pandemic levels. The below table does shows the non-distinct student participation in AP/IB courses by school and year dating back to 2020-2021:

	Black AP/IB Enrollment					White AP/IB Enrollment			
	20-21	21-22	22-23	23-24		20-21	21-22	22-23	23-24
Total	850	531	643	812		2660	2128	2612	2582
Grissom	82	45	48	70		1031	747	815	845

Huntsville	99	57	72	102		1180	1015	1334	1274
Columbia IB	132	67	88	54		57	39	37	30
Columbia AP	39	34	32	43		20	11	10	14
Lee	83	105	135	213		53	46	86	133
Jemison	278	118	161	190		24	24	54	37
NCTHS	137	105	107	140		295	246	276	249

The District has largely seen a steady percentage of subgroups participating in AP courses since the implementation of the Consent Order. The below table shows the percent of students, by race, that participate in at least one AP course. For example, the Black column shows the percent of Black students participating in at least one AP course by year. The chart shows the data by year dating back to the 2015-2016 school year.

Percent of Group in an AP Course				
	Black	White	Other	All
2015-16	18%	40%	26%	29%
2016-17	19%	42%	27%	30%
2017-18	18%	41%	28%	30%
2018-19	18%	41%	27%	30%
2019-20	17%	39%	23%	28%
2020-21	16%	39%	26%	28%
2021-22	12%	34%	20%	22%
2022-23	15%	33%	24%	25%
2023-24	17%	41%	23%	28%

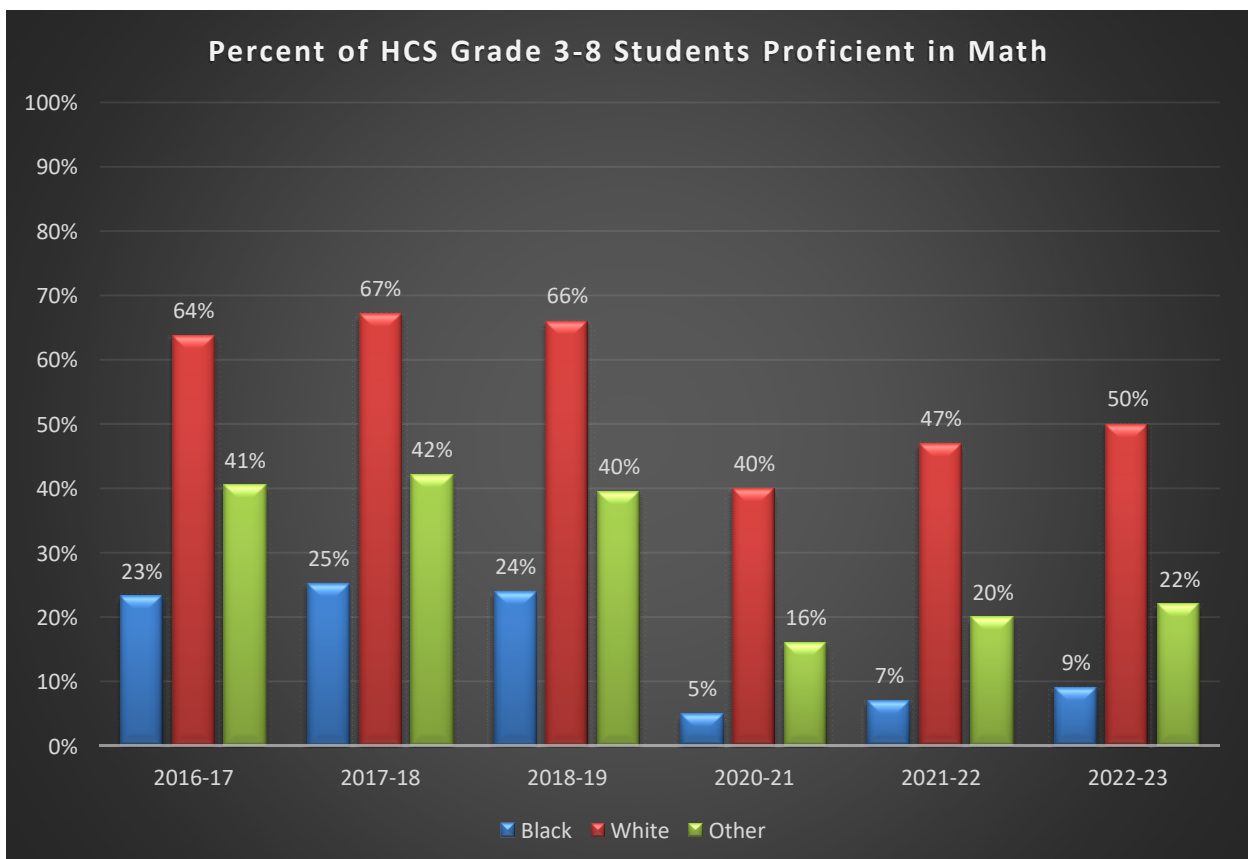
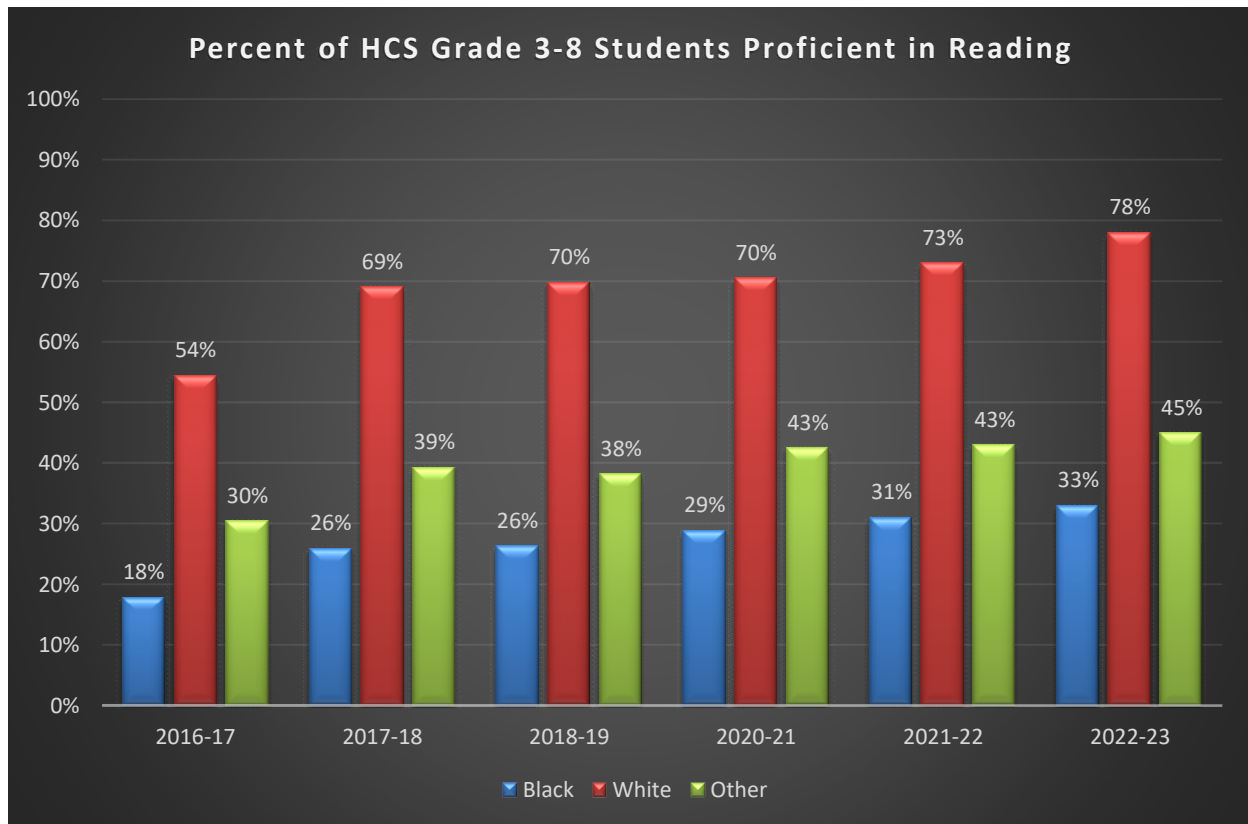
* * *

III.M.1.b.: *For the 2022-23 school year, academic proficiency of students in English and Math in the District and by school, as measured by the State assessments disaggregated by race.*

Notes:

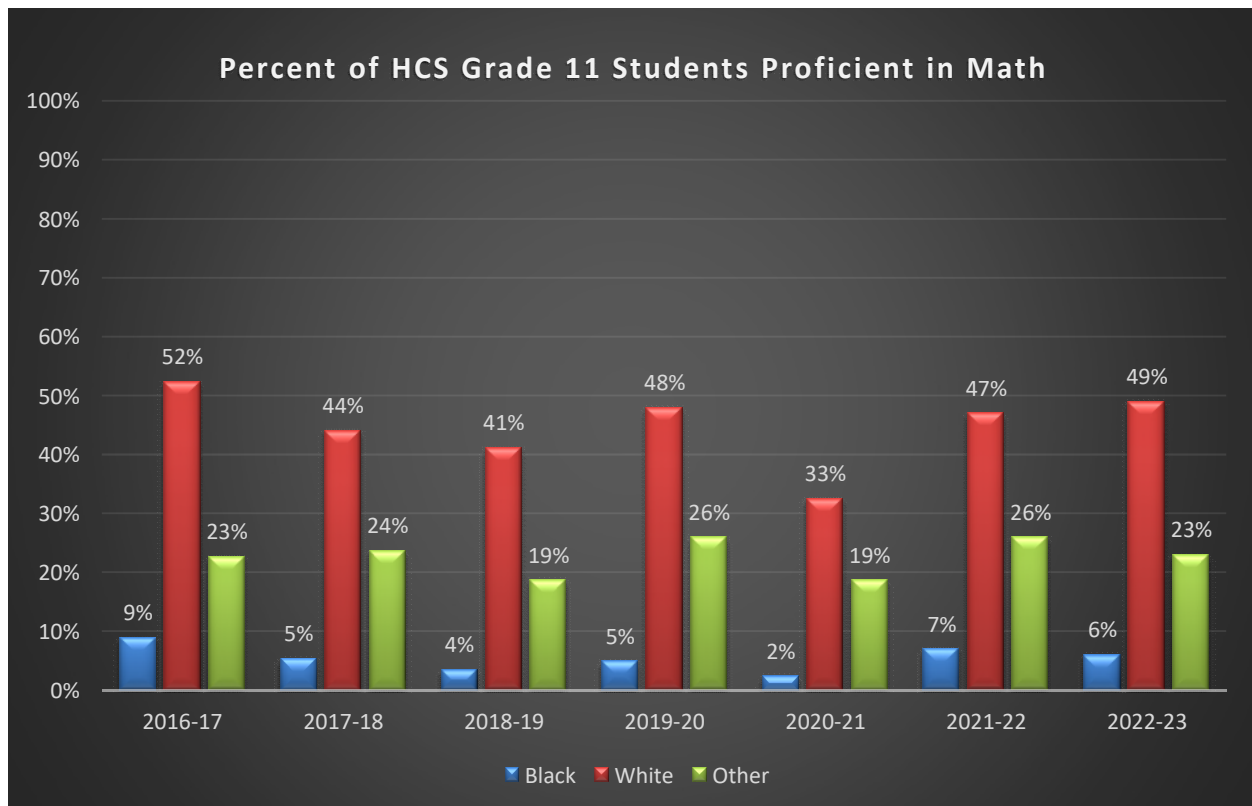
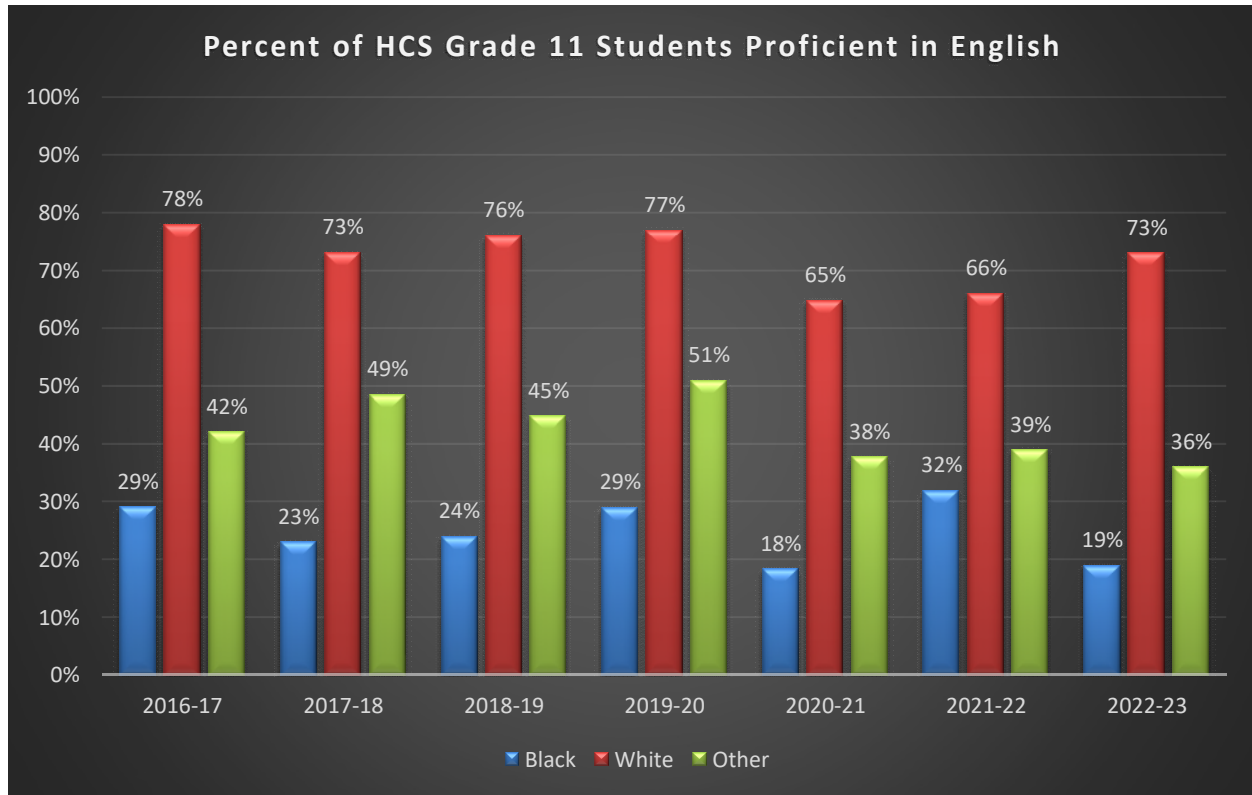
For student proficiency in grades three through eight, the Alabama State Department of Education currently uses the ACAP assessment, which tests English Language Arts (“ELA”) and math. The ELA section of the ACAP covers reading, English, and writing. The test includes multiple choice questions, writing questions, and questions that require underlining or other interactions. For math, the ACAP tests a student’s ability to execute the appropriate process or procedure for the problem, not just the student’s ability to get the correct answer. Many of the ACAP math questions are interactive, requiring the student to use digital tools like a ruler.

It is difficult to compare student proficiency at the elementary and middle school level year over year because of the changes in the state approved assessment as described in last year’s report. (Doc. 744, pp. 19-20). However, the below table shows the District-wide, grade three through eight, student proficiency data year over year since the 2016-2017 school year.



As a reminder, the District's secondary proficiency is solely tied to eleventh grade student performance on the ACT with Writing assessment. The ACT with Writing consists of five sections: English, mathematics, reading, science, and writing. The Consent Order requires the District to report proficiency scores at the high school level for English and math. (Doc. 450, p. 60). Like last year, the District reported student proficiency at the high school level in English Language Arts (ELA), English, and Math. Per the ACT Technical Manual, the ELA score is calculated as the rounded average of the English, reading, and writing scaled scores. Beginning with the 2020-2021 school year, the Alabama State Department of Education changed the state proficiency metrics to ELA, mathematics, and science on the ACT with Writing test for high school. For the 2022-2023 school year, to achieve proficiency, as defined by the Alabama State Department of Education, a student must score at least a 19 for both ELA and mathematics.

The below tables provide a year-over-year comparison of the District's 11th grade proficiency data since the 2016-2017 school year:



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III.M.1.c.: *For the 2023-24 school year*, a list of teachers hired or assigned by each high school to teach an AP or IB Diploma course, the course(s) taught by each teacher, the number of sections taught by each teacher, and the credentials of each teacher.

Notes:

This report contains extensive information regarding the District's AP and IB Diploma course teachers. The District continues to make the retention of AP and IB Diploma course teachers a priority.

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III.M.1.d.: *For the 2023-24 school year*, a report for each school that includes the employee number of each teacher, his or her race, professional degrees, certifications, years of experience (3 years of less and more than years) and course or courses taught.

Notes:

Like last year, the District prepared a single spreadsheet, as opposed to two spreadsheets based on how many classes teachers taught, to report each teacher's race, degree(s), certifications, years of experience, and course(s) taught by school. Teachers with multiple certifications and degrees occupy multiple rows on the spreadsheet because the District's tracking software for certified staff creates multiple rows for a single teacher to account for each of that teacher's certifications and degrees. The rest of the information on the row should be identical to all other rows with the same teacher's name.

When the Court granted the District's Unopposed Motion to Modify Student Assignment (Doc. 644), the District split its remaining P-8 schools (AAA, ASFL, Chapman, Morris, Mountain Gap, and Whitesburg) into separate elementary and middle schools. In keeping with the Court's Order granting that Motion, the District notes that the Court and United States can review the data for the former combined pre-Kindergarten through eighth grade campuses by combining the data from the separate elementary and middle school pages for the respective school.

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III.M.1.e.: *For the 2022-23 school year*, a list of professional development activities required by Section III, including the date, duration, subject matter, presenter, and number of individuals in attendance by group (e.g., principals, teachers, etc.).

Notes:

Implementing the Consent Order requires extensive professional development and training for District employees. While this report is extensive, it only covers the professional development required as part of Section III of the Consent Order. Professional development related to other aspects of the Consent Order are not included in this report.

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III.M.1.f.: *For the 2022-23 school year*, a list of parent/guardian outreach activities, including the date, duration, and approximate number of individuals in attendance, and estimate of participation levels by race.

Notes:

As emphasized in previous Court Reports, one of the key features of the Consent Order is parent/guardian and family outreach. This report demonstrates the scope of the parent/guardian outreach performed by the District pertaining to Section III of the Consent Order. This year, the District outreach efforts consisted of in-person events and meetings; virtual events and meetings; and the use of social media (ex. Facebook Live). The District believes that the use of different media to reach parents has increased overall parent participation in outreach events.

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III.M.1.g.: *For the 2022-23 school year*, a list of student support services offered pursuant to Section III.H.

Notes:

Report III.M.1.g. contains several spreadsheets that show the various ELA and math supports offered at each school in the District. As the District has tried to do each year, the District team has reformatted the reports to make them easier to read.

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III.M.1.h.: *For the 2022-23 school year*, a report of the results of the survey required by Section III.I.7.² and action steps taken based on the survey results.

² The Consent Order contains a typo in this reporting requirement. It should read “Section III.H.7.” instead of III.I.7. However, to ensure that this document matches the Consent Order, the language from the Consent Order has been used.

Notes:

The Consent Order requires the District to conduct a survey of parents/guardians, students, and teachers as to their perceptions about AP, IB Diploma, and honors courses. (Doc. 450, p. 53). This survey was completed during the 2022-2023 school year consistent with the requirements of the Consent Order. In prior years, the District has provided the Court detailed summaries of the survey responses disaggregated by race and feeder pattern. Compiling this summary report is a tedious task for District team members. This year, the District ran into some issues disaggregating the survey results by feeder pattern. The District team is currently working to correct these issues. The District will file a supplemental report within 30 days that includes a copy of the survey results in the format used in prior years. The District sincerely apologizes for this misstep.

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III.M.2.: The District will provide the data reviewed and the plans developed pursuant to Section III.M. to the United States. The District will provide a summary of the data reviewed and the plans developed pursuant to Section III.M. to the Court.

Notes:

The District will provide the data and plans developed during its self-monitoring process to the United States. Report III.M.2. is a narrative summary of the plans and data.

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IV. EXTRACURRICULAR ACTIVITIES

IV.H.1.: *For the 2022-23 school year*, a list of extracurricular activities offered in the District, by school and core activity category where applicable.

Notes:

This report shows the extracurricular clubs and activities of each school. All elementary, middle, and high schools in the District offered at least the minimum number of clubs required by the Consent Order.

* * *

IV.H.2.: *For the 2022-23 school year*, school participation rates and targets in the Elementary School Core Activity and the Middle/Junior High School Core Activities and any actions taken by the District to support schools in meeting participation targets.

Notes:

As the Court is well aware, the District has struggled since the implementation of the Consent Order to determine the best method for setting targets for extracurricular participation. This year, as in prior years, the District has set the target for each club at a school to match that school's overall demographics, plus or minus 15 percentage points. By setting it at that rate, the District gives each school a, mostly, static goal that is unique to them. To help track the difference between the target and the actual participation rate, the District has included a set of "Difference" columns. Participation rates that fall within the plus or minus 15 percentage point threshold are colored green. Participation rates that fall between

plus or minus 16 and 20 points are colored yellow. Participation rates that fall outside the plus or minus 20 percentage points threshold have been colored red.

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IV.H.3.: *For the 2022-23 school year*, a description of measures taken by the District to make students aware of academic clubs and related extracurricular opportunities.

Notes:

This report shows the District-wide measures for making students aware of academic clubs and related extracurricular activities. For example, District middle, junior high, and high schools hosted club fairs during the school day in the fall of 2022-23. Some schools elected to present a second club fair in the spring to allow students the opportunity to participate in different clubs or activities for the second semester. All middle schools and high schools participated in the Curriculum Showcase at the Von Braun Center North Hall on March 5, 2022. The schools were represented by Administrators, Sponsors, and students at the Showcase. Special programs, clubs and activities, and advanced courses were highlighted at each school's booth with rack cards available for parents and students.

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V. FACULTY

On September 15, 2023, the Court suspended the Board's reporting obligations as to faculty and staff found in Section V.D. of the Consent Order. (Doc. 770, p. 4). The Court stated that "[t]he Board's efforts to date in the area of faculty

and staff and its commitment to avoid a reversion to prior de jure practices warrants a relaxing of supervision in this area until the Court releases the Board from federal supervision of faculty and staff.” (Id.).

* * *

VI. FACILITIES

VI.C.: The District’s progress on the construction of Morris Pre-K-8 School, Jemison High School, McNair Junior High School, Grissom High School, Whitesburg Pre-K-8 School, and Hereford Elementary School, and the District's progress on the renovation of AAA.

Notes:

To date, the District has completed all the above tasks in the Facilities section of the Consent Order. Thus, there are no reports for this requirement. The District is working on finalizing an updated, 10-year comprehensive facilities plan. The District should have the plan finalized during the spring of 2024. The District will plan to discuss its plans in a filing at that time.

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VI.C.: The District’s progress on the renovation of Martin Luther King, Jr. Elementary School.

Notes:

As a reminder, the District completed the renovations of Martin Luther King, Jr. Elementary School significantly ahead of the December 2016 deadline. As such, there are no reports for this requirement.

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VI.C.: The District’s progress towards removing remaining portable classrooms.

Notes:

This report shows that the District has 11 portables (“modular buildings”) in use during the 2023-2024 school year. The modular buildings previously located at Whitesburg Elementary and Middle schools have been discontinued as of the summer of 2023. The remaining 11 modular buildings are located at the following schools: Morris Elementary/Middle (2); Goldsmith-Schiffman Elementary (2); Grissom High School (4); and Hampton Cove Elementary/Middle (3). These modular buildings were emplaced in September 2021 as a temporary measure to address capacity issues. The modular buildings are in use for the 2023-24 school year. Each portable can support up to 30 students. The District is currently undertaking facility planning, and its plans should reduce or eliminate the need for modular buildings.

* * *

VI.C.: Implementation of the District’s Playground Plan.

Notes:

As described in last year’s Cover Memorandum, the District’s special education department undertook efforts to review the accessibility of the District’s playgrounds for students with disabilities. The District identified seven schools that

needed playground improvements to ensure accessibility for students with special needs. Those schools were: Academy of Science and Foreign Languages; Blossomwood Elementary; Huntsville Junior High; McNair Junior High; Morris Elementary; Mountain Gap Elementary; and Whitesburg Elementary. These playgrounds had pieces needing to be replaced or accessibility needed to be improved. The District has completed all of these playground projects.

* * *

VI.C.: Implementation of the District's SMALLab Plans.

Notes:

As mentioned in previous years' Court Reports, the District has moved away from the SMALLab program.

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**VII. STUDENT DISCIPLINE, POSITIVE SCHOOL CLIMATE, AND
EFFECTIVE CLASSROOM MANAGEMENT**

VII.I.1.: The District's Student Code of Conduct implemented after the effective date of this Consent Order or after the previous annual report.

Notes:

The documents responsive to this reporting requirement are the Behavioral Learning Guide ("BLG"), the Elementary Matrix, and the Secondary Matrix. The District only made minor changes to substantive provisions of the documents as compared to the prior year's version. However, this year, the District has combined

all of the documents into a single document (instead of three separate documents) for ease of use.

* * *

VII.I.2.: *For the 2022-23 school year*, a list of professional development activities required by Section VII, including the date, duration, subject matter, presenter and number of individuals in attendance by group (e.g., principals, teachers).

Notes:

According to the Consent Order, “[t]he District will provide initial and annual refresher professional development, which may be online, for teachers and administrators on the revised Student Code of Conduct.” (Doc. 450, p. 77). The reports responsive to this requirement show the professional development provided to certified and non-certified staff on the code of student conduct, positive school climate, and other similar topics.

* * *

VII.I.3.: *For the 2022-23 school year*, the information provided to parents/guardians pursuant to Section VII.

Notes:

This report shows the District’s outreach efforts during the fall of the 2022-2023 school year. The District has found Facebook Live to be the best method for reaching a higher number of parents. Facebook Live allows the District to record videos that parents can access on their own time. As it did for the 2021-22 school year, for the 2022-23 school year, the District recorded an informational video for

parents that discussed the BLG, Matrices, BLOOM, PBIS, Restorative Practices/Restorative Panel Meetings, ABE and MST. As of November 10, 2023, the video had been viewed approximately 656 times. The District was not able to track the race of participants due to limitations of the Facebook Live view counter.

* * *

VII.I.4.: *For the 2022-23 school year*, and for each school, the total number and percentage of students receiving a disciplinary referral, disaggregated by race, in-school suspension, out-of-school suspension, expulsion, school referrals to law enforcement and alternative school placement and plans/strategies developed and implemented as a result of the District’s review in Section VII.G.³

Notes:

During the 2022-23 school year, the District continued to see the impacts of COVID-19 on student behavior that it started seeing during the 2021-22 school year as the District saw a return to normal school. The District has explained in past cover memoranda that it expected to and did see an increase in incidents of student misbehavior as students have coped with issues caused by the pandemic and struggled with returning to “normal” school after the pandemic. While the District is taking steps to address these needs, it is not alone in its work. The District’s discipline expert, Dr. Sara McDaniel,⁴ has shared research with the District

³ The requirement for the District to meet and review is found in Section VII.H. (See Doc. 450, p. 83) As such, this reporting requirement should read “VII.H.” instead of “VII.G.”

⁴ Dr. McDaniel serves as the Director of Center of Interconnected Behavioral and Mental Health Systems, out of the University of Alabama.

highlighting the fact that this increase in incidents of student discipline is not unique to the District. In one such article, the author created a table showing the challenges facing boards of education following the COVID-19 pandemic, and, for reference, the District has included that table below:


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Table 1 School discipline trends and considerations in the age of COVID-19.

Dimensions of School Discipline	School discipline in 2019-20 – “The Year COVID-19 Struck”	School Discipline in 2020-21 – “Trying to Manage COVID-19”	School Discipline in 2021-22 – “The Pains of Returning to Normal”
<i>Instructional mode</i>	In-person until March 2020; mostly remote learning for remainder of spring semester	Mostly remote learning with sporadic bouts of in-person learning	Return to in-person in fall 2021; retreat to remote learning at the start of spring 2022 due to the surge of the Omicron variant
<i>Trends in prevalence and disparities of ODRs and suspensions</i>	<ul style="list-style-type: none"> No ODRs after COVID-19 shutdown of in-person classrooms in March 2020 	<ul style="list-style-type: none"> Fewer ODRs Fewer Suspensions Increase in parental notifications Persistent disparities by student race and disability status 	<ul style="list-style-type: none"> Increase in ODRs Increase in suspensions
<i>Trends in disciplinary infractions</i>	<ul style="list-style-type: none"> Infractions are mostly subjective offenses such as student incivility 	<ul style="list-style-type: none"> Infractions due to the enforcement of COVID-19 safety protocols 	<ul style="list-style-type: none"> Infractions due to issues accompanying the return to in-person learning Increase in fighting
<i>Concerns and considerations</i>	<ul style="list-style-type: none"> Reporting of school discipline data and undocumented exclusion in remote learning 	<ul style="list-style-type: none"> Code of conduct governing school discipline in remote learning Reporting of school discipline data and undocumented exclusion in remote learning Educator well-being and the implications for disciplinary process in schools 	<ul style="list-style-type: none"> Relearning how to do in-person schooling Educator and student well-being and the implications for disciplinary process in schools Personnel challenges shaping disciplinary practices Revert to hardening of schools in response to acclimatization issues

Welch, Richard “School Discipline in the Age of COVID-19: Exploring patterns, policy, and practice considerations”; p. 296, Table 1, *Peabody Journal of Education*, (June 2022).

Below, as it has done in prior years, the District has provided a year by year comparison of the District-wide data for in-school suspensions (“ISS”) and out-of-school suspensions (“OSS”). As can be seen from the table below, while the District

continues to see year-over-year increases in ISS and OSS, it is only now arriving at its pre-pandemic levels of exclusionary discipline (*see* 2017-18 and 2018-19 ISS and OSS percentages as compared to 2022-23).

Year	% of Group with ISS			% of Group with OSS		
	Black	White	Other	Black	White	Other
2014-15	9%	4%	3%	11%	2%	3%
2015-16	11%	4%	5%	11%	2%	3%
2016-17	14%	5%	7%	11%	2%	3%
2017-18	18%	7%	8%	14%	3%	4%
2018-19	22%	7%	10%	17%	4%	5%
2019-20	17%	5%	8%	11%	2%	3%
2020-21	6%	3%	3%	4%	1%	1%
2021-22	11%	5%	5%	13%	3%	4%
2022-23	19%	7%	7%	16%	3%	4%

* * *

X. MONITORING, REPORTING, AND OVERSIGHT

X.A.: *For the 2023-24 school year*, the District will provide the United States a copy of its student enrollment database electronically in Microsoft Excel or similar format and will file with the Court a report of its student enrollment, disaggregated by school and race.

Notes:

This report shows the student enrollment disaggregated by race and school for the 2023-24 school year, and it does not reflect any major changes year over year.

* * *

X.G.: *For the 2022-23 school year*, the District will provide the United States and the Court with its annual budget and a list of District expenditures related to the implementation of the Consent Order for the previous school year.

Notes:

This report contains the District's annual budget for the 2023 fiscal year. This report also contains a list of some of the expenditures related to the implementation of the Consent Order. As explained in previous years, there is almost no aspect of the District's budget that does not, in some part, touch on the implementation of the Consent Order. Nevertheless, to be as informative to the Court as possible, the District has tried to include the largest Consent Order costs in the list of expenditures.

* * *

WHEREFORE, and in consideration of the foregoing, the Board submits the following Evidentiary Submission of the Ninth Consent Order Report:

EXHIBIT II.D.8.a.: Documents responsive to § II.D.8.a. of the Consent Order

EXHIBIT II.D.8.b.1.: Documents responsive to § II.D.8.b.1. of the Consent Order

EXHIBIT II.D.8.b.2.: Documents responsive to § II.D.8.b.2. of the Consent Order

EXHIBIT II.D.8.b.3.: Documents responsive to § II.D.8.b.3. of the Consent Order

EXHIBIT II.F.1.: Documents responsive to § II.F.1. of the Consent Order

EXHIBIT II.F.2.: Documents responsive to § II.F.2. of the Consent Order

EXHIBIT II.F.3.: Documents responsive to § II.F.3. of the Consent Order

EXHIBIT II.F.4.: Documents responsive to § II.F.4. of the Consent Order

EXHIBIT II.F.5.: Documents responsive to § II.F.5. of the Consent Order

EXHIBIT III.M.1.a.: Documents responsive to § III.M.1.a. of the Consent Order

EXHIBIT III.M.1.b.: Documents responsive to § III.M.1.b. of the Consent Order

EXHIBIT III.M.1.c.: Documents responsive to § III.M.1.c. of the Consent Order

EXHIBIT III.M.1.d.: Documents responsive to § III.M.1.d. of the Consent Order

EXHIBIT III.M.1.e.: Documents responsive to § III.M.1.e. of the Consent Order

EXHIBIT III.M.1.f.: Documents responsive to § III.M.1.f. of the Consent Order

EXHIBIT III.M.1.g.: Documents responsive to § III.M.1.g. of the Consent Order

EXHIBIT III.M.1.h.: Documents responsive to § III.M.1.h. of the Consent Order

EXHIBIT III.M.2.: Documents responsive to § III.M.2. of the Consent Order

EXHIBIT IV.H.1.: Documents responsive to § IV.H.1. of the Consent Order

EXHIBIT IV.H.2.: Documents responsive to § IV.H.2. of the Consent Order

EXHIBIT IV.H.3.: Documents responsive to § IV.H.3. of the Consent Order

EXHIBIT VI.C.: Documents responsive to § VI.C. of the Consent Order

EXHIBIT VII.I.1.: Documents responsive to § VII.I.1. of the Consent Order

EXHIBIT VII.I.2.: Documents responsive to § VII.I.2. of the Consent Order

EXHIBIT VII.I.3.: Documents responsive to § VII.I.3. of the Consent Order

EXHIBIT VII.I.4.: Documents responsive to § VII.I.4. of the Consent Order

EXHIBIT X.A.: Documents responsive to § X.A. of the Consent Order

EXHIBIT X.G.: Documents responsive to § X.G. of the Consent Order

RESPECTFULLY SUBMITTED this 15th day of November.

/s/ Christopher M. Pape

Christopher M. Pape
Zachary B. Roberson
McKala R. Troxler

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CERTIFICATE OF SERVICE

I certify that I have filed the foregoing with the Clerk of the Court using the CM/ECF electronic filing system which will send notification of such filing to those parties of record who are registered for electronic filing, and further certify that those parties of record who are not registered for electronic filing have been served by mail by depositing a copy of the same in the United States mail, first class postage prepaid.

/s/ Christopher M. Pape

Christopher M. Pape